

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 42238 of 2023

Applicant :- Mohammad Faiz

Opposite Party :- State of U.P.

Counsel for Applicant :- Mansoor Ahmad

Counsel for Opposite Party :- G.A.,Deepak Singh
Patel,Satyendra Singh

Hon'ble Umesh Chandra Sharma,J.

1. Rejoinder affidavit filed today is taken on record.
2. Heard Sri Mansoor Ahmad learned counsel for the applicant, Sri Arvind Kumar, learned A.G.A. for the State and perused the record. None appears for the informant.
3. The instant bail application under Section 439 Cr.P.C. has been filed with the prayer to enlarge the applicant on bail in Case Crime No. 159 of 2023 under Sections 420, 120B, 468, 467, 471, 447, 387 I.P.C., Police Station- Kareli, District- Prayagraj, during the pendency of the trial.
4. Admittedly, the plot no. C.C.-1 area 296 square meter which was in the name of one Madhu Devi who had executed a deed of power of attorney in favour of her brother Sugani Chand Prem Chandani. Learned counsel for the applicant contended that on the basis of power of attorney, Sugani Chand Prem Chandani sold the property in question on 21.8.1997 to the mother of Parvez Akhtar and after death of his mother Parvez Akhtar is the owner in possession of the property in question. However, later on the learned A.G.A. contended that as per his instruction, at present the construction on the aforesaid plot has been demolished by the Awas Vikash Pradhikaran has taken possession over it.
5. It is admitted that prior to sale deed dated 21.8.1997 one sale deed dated 19.7.1997, had been executed in favour of the informant which is subject matter of present F.I.R. Learned counsel for the applicant contended that since 1997 the informant never claimed any ownership over the property in question and the sale dated 19.7.1997 is forged and has been obtained fraudulently. After knowing that the informant is claiming ownership on the

basis of the sale deed dated 19.7.1997, Parvez Akhtar has filed an original suit no. 637 of 2019 for the relief of injunction and declaration of the impugned sale-deed to be null and void.

6. Since learned A.G.A. admitted that the applicant is the brother of the tenant of Parvez Akhtar, a civil litigation is also going on between the parties, the applicant is languishing in jail since 26.7.2023 and after submission of the charge-sheet, there is no hope of early conclusion of trial, more so no reasonable apprehension has been brought to the fore by the State that the applicant, if enlarged on bail, would either temper with the evidence or delay the trial or intimidate the witness, without commenting on the merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

7. Let the applicant- Mohammad Faiz, involved in aforesaid case be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to the conditions that he:

- (i) shall appear on the date fixed by the trial court;
- (ii) shall not tamper with the prosecution evidence;
- (iii) shall not pressurize the prosecution witnesses.

8. In case of breach of any of the above conditions, the prosecution shall be at liberty to move bail cancellation application before this Court.

Order Date :- 1.12.2023
S.Verma